



pay docking—and, therefore, that all of ARCO's salaried professionals were really just working-stiff hourly workers who should have been paid for overtime. The suit, filed last year in Alaska state court (Alaska law tracks federal law in this area), claims ARCO Alaska owes at least two years of overtime pay—tens of millions of dollars—to all of the company's hundreds of professional employees. That includes accountants, engineers and other high-ranking managers.

"It's an 'I gotcha' case," steams Lloyd Loomis, senior corporate counsel for ARCO Alaska. "These people [the professionals] make oodles of money; nobody is expecting overtime. This is crazy." So far a judge has denied class action status, but the plaintiffs plan to reapply.

The Boeing Co., too, is facing a back-overtime class action filed on behalf of professional engineers and managers, some of whom make as much as \$120,000 a year. Plaintiff

lawyers say the potential liability could reach more than \$40 million. A win could put around \$15 million into the plaintiff lawyers' pockets. "It's completely and totally absurd," fumes Douglas Kight, counsel for Boeing. The U.S. District Court in Seattle agreed and dismissed the class action suit in April, but the Court of Appeals for the Ninth Circuit has agreed to hear the appeal.

The wellspring of these cases is a technical section of the 1938 Fair Labor Standards Act that was intended to protect low-wage workers from grueling overtime, and to force employers to hire more people. The law and accompanying regulations have not

been substantially updated in 40 years. Plaintiff lawyers looking for new business opportunities have discovered that the law's many fine points and exceptions are fertile ground for lawsuits.

Under the Fair Labor Standards Act, employers must pay time-and-a-

half overtime beyond 40 hours a week to all but "exempt" employees. Who's exempt? The law says anyone "employed in a bona fide executive, administrative or professional capacity." Exempt employees also must be paid on a "salary basis," which means a set salary paid in increments of no less than a week, regardless of the quantity or quality of the work. That's why docking of pay tripped up Rush-Presbyterian Medical Center and may foil ARCO Alaska and others.

The Supreme Court is about to take on a big chunk of the overtime controversy. In a little-noticed case on the docket this term, *Auer v. Robbins*, the Court will hear an appeal brought by a group of police sergeants in St. Louis who say they're owed overtime because they are subject to a disciplinary policy that would dock their pay for less than a pay period.

If the Court agrees with the plaintiffs that just having a short-term pay-docking policy on the books is enough to turn professional employees into hourly workers, the floodgates to these kinds of suits could really open up.

ILLUSTRATIONS BY BRIAN KOPP

Note for Nelson*/Schick* NSK

From: Buffington*/Doyle* NSK
Date: Thu, Dec 5, 1996 10:50 AM
Subject: Billing Time Audit
To: Nelson*/Schick* NSK
Cc: Dickerson*/Miles* NSK; Nelson*/White* NSK

Charlie/Mark:

I have been auditing my Wells, whse, & shop time tickets from 12/1-12/5. All and all these groups do very well with their changeout time tickets. The below are two discrepancy areas that I have encountered:

1) People that are direct report to ARCO supervision have been told to start charging as ARCO does - as soon as the plane lands and to stop charging when the plane takes off. At this point, they have no idea they are doing anything incorrectly.

2) A foreman mentioned to me that during the "legal awareness" training he took, a discussion took place about time missed because of charter delays. Here was the result of that discussion....

- The attorney that was leading the seminar told the group that it was each individuals legal right to get his/her normal hours worked if he/she was delayed due to weather or mechanical failure in the Anchorage airport. The employee meets his/her responsibility by arriving at the airport on time and is due his/her fair wage because it was no fault of his/her own that he/she could not report for duty as normal.

If this is in fact true and ARCO will pay for it, this would certainly be a good morale raiser as I don't believe anyone has ever charged for this before. It would be like getting a new benny. (This was the foreman's idea, I take no credit, but tend to agree it would make people feel like that got something special)

The concern the foremen have expressed to me is consistency. They don't really remember this being discussed on a company wide basis to form the consistency between jobs. Shane

APC Interoffice



MEMORANDUM.....

DATE: December 7, 1996
TO: Anne Hippe / Toby Osborn
FROM: Mark Nelson
SUBJECT: A few compensation questions?

After reading the attached article from Forbes magazine last month regarding employee compensation I've been concerned over the way we have a few of our employees classified. I was going to call the Alaska department of labor for an opinion and still can, I just want to make sure all of our jobs are consistent so we have no exposures.....

In the Kuparuk field the majority of our foremen are non-exempt although the materials foremen are exempt on a day rate. Their title is materials supervisor but essentially perform a foreman's role reporting to a superintendent. The question comes up, what does "bona fide executive, administrative, or professional capacity" really mean? In this situation my research would indicate these supervisors should be non-exempt - would you concur? In addition, the article talks about paying a salaried employee in increments of no less than a week. We have many employees on a "day" rate and for the sake of payroll put 10 hours of work down each day on their timecards. I'm thinking we may want to get completely away from any mention of hours and only indicate a day worked. Plus would the legal opinion be that we work the majority of our employees on a two on two off cycle would constitute a "weekly" basis?

Take a look at the article and see if we should have any concerns and if you know who the attorney was who talked with our foreman regarding "charter delays." We may want to research this? (see attached)

Thanks for the help!

MARK

APC0140

APC JOB #624**JOB DESCRIPTION -- MECHANICAL PROJECTS****DIVISION CLASS: MAINTENANCE/CONSTRUCTION****JOB TITLE: Project Superintendent**

SUMMARY: This is a supervisory level or department head level position that reports directly to the general superintendent or project manager. Project superintendent plans, coordinates and supervises mechanical on-site activities for a specific construction or maintenance project.

DUTIES AND RESPONSIBILITIES include the following—other duties may be assigned.

The project superintendent must be familiar with all related disciplines associated with the petrochemical industry. Responsible for planning, scheduling and interfacing with other APC disciplines, the design contractor, and AAI representatives on a specific project. Responsible for coordinating activities to optimize production and utilization of human resources and equipment, and the safe work practices of his/her employees. Must understand the ARCO work permit system and how to direct others to initiate and close permits. Assure mechanical constructibility of projects during design and upon completion.

SUPERVISORY RESPONSIBILITIES: Supervise the mechanical disciplines under his department. Fulfill supervisory responsibilities in accordance with APC's policies and applicable laws, including the Supervisor's Handbook and PPGs. Responsibilities include directing work, reviewing time sheets, appraising performance, mentoring employees, and administering discipline. Also conduct safety meetings, status reporting with regard to daily work progress and personnel loading, and resolve problems in conjunction with the project engineers and general superintendent or project manager.

QUALIFICATION REQUIREMENTS: To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The "Job Responsibilities Worksheet" lays out the duties and responsibilities, qualifications, expectations, education/experience, and certificates/licenses required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

EXPECTATIONS: Must first and foremost comply with the ARCO/BP Safety Handbook and ensure the safety of all APC employees. Must be able to make timely, educated decisions. Must possess strong interpersonal leadership skills and lead by example. Must be self-motivated to learn and perform on the job.

EDUCATION and/or JOB-RELATED EXPERIENCE: Two years experience in arctic construction practices and five years petroleum industrial-mechanical construction supervision; arctic experience desirable.

CERTIFICATES/LICENSES: Current driver's license and MAPTS 16-hour oil field health and safety training certification are required for employment at Kuparuk. Additionally, must obtain Red Cross First Aid and CPR certification.

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APC JOB #624**JOB DESCRIPTION – ENGINEERING****DIVISION CLASS: CONSTRUCTION****JOB TITLE: Project Engineer**

SUMMARY: This is an engineering position that reports directly to the senior project engineer and is assigned to major "stand-alone" projects. Candidate must be capable in all phases of petrochemical design and engineering work.

ESSENTIAL DUTIES AND RESPONSIBILITIES include the following--other duties may be assigned.

Must first and foremost comply with the APC safety policy and the ARCO/BP Alaska Safety Handbook, and lead and educate fellow employees in safe work ethics, practices, and behaviors. Must understand the prioritization of safety, quality, and production, and work accordingly.

Oversee and direct construction field engineers and estimators assigned to the project(s). Keep apprised of upcoming work through contact with design groups and reviews of work in the design phase. Advise the engineering contractor of construction issues that would enhance work performance in the safest and most cost effective methods. Coordinate with the client, engineering contractor, and other field support contractors to set construction priorities. Provide technical support where needed to ensure that the field has sufficient information and documentation to maintain integrity of work, while complying with applicable codes, current specifications, and field philosophies. Review work scopes, estimates, work plans, and assist in development of overall project schedules. Coordinate and establish requirements for surveying contractor activities in support of projects. Review construction field problems and coordinate and document the required changes (ECAR procedure).

SUPERVISORY RESPONSIBILITIES: Fulfill supervisory responsibilities in accordance with the organization's policies and applicable laws. Responsibilities include directing work, appraising performance, and resolving problems that may arise with regard to scope or materials in conjunction with AAI, Anvil and other APC departments.

QUALIFICATION REQUIREMENTS: To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

EDUCATION and/or JOB-RELATED EXPERIENCE: Five years or more of experience and/or training in construction engineering; arctic experience desirable. A Bachelor's Degree in a related engineering field is highly desirable.

COMPREHENSION SKILLS: Ability to read and comprehend Alaska Safety Handbook, documents and drawings. Must be able to write in a clear, concise manner; technical writing experience is desirable.

MATHEMATICAL SKILLS: Ability to add, subtract, multiply, and divide in all units of measure, using whole numbers, common fractions, and decimals. A firm grasp of geometry, trigonometry and engineering calculations is highly desirable.

CERTIFICATES, LICENSES, REGISTRATIONS (PREREQUISITE FOR HIRE): Current driver's license and MAPTS 16-hour oil field health and safety training certification are required for employment at Kuparuk. In addition, current American Red Cross First Aid and CPR certifications are required for supervisors.

JOB #626

APC JOB DESCRIPTION - WAREHOUSE

DIVISION CLASS: CONSTRUCTION MAINTENANCE

JOB TITLE: Materials Supervisor

SUMMARY: Performs lead role in receiving, inspection, stocking, staging, packaging, crating, inventory issue, shipping and delivery functions in Kuparuk warehousing system.

ESSENTIAL DUTIES AND RESPONSIBILITIES include the following. Other duties may be assigned.

A Materials Supervisor must first and foremost be able and willing to comply with the APC safety policy and the ARCO/BP Alaska Safety Handbook, and must be willing and able to lead and educate fellow employees in safe work ethics, practices, and behaviors. Must understand the prioritization of safety, quality, and production, and be willing to work accordingly. A successful candidate must be familiar with all job requirements and duties of the contract work force. Candidate must be familiar with the use of the ARCO AMPS system, and operating procedures, perform, train, instruct other personnel in performance of storage, issue, inventory control, shipping, receiving and transportation functions in a safe and environmentally sound manner. Prepare detailed written proposals, plans and project status reports. Develop or assist in developing procedures by working with all groups that require material support or are themselves providing support to Materials Department. Assess, forecast and respond to management-mandated business needs regarding manpower, equipment, tools, supplies and materials used to perform the work. Develop written budgetary criteria / justifications for related expenditures. Monitor business costs in all areas of responsibility and prepare periodic status reports regarding same. Instruct other personnel regarding handling, storage and transportation of hazardous materials, to include the disposal of used chemical and lube drums in a safe and environmentally conscious manner. Participate in physical inventory counts maintaining a minimum accuracy rate of 97.5%. Review inventory adjustments and recommend changes to improve accuracy and integrity. Operate all material handling equipment assigned to the work site, including but not limited to electric, diesel, gas and propane-powered lift trucks, pickups and flatbed trucks. Perform and instruct other Contractor personnel in performance of daily equipment inspection, maintenance and operation.

QUALIFICATION REQUIREMENTS:

To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

EDUCATION and/or JOB RELATED EXPERIENCE:

Five or more years experience and/or training; general knowledge of standard warehousing principles and practices, familiarity with oilfield production equipment, its maintenance and standard parts. Strong administrative and computer skills required. Arctic experience desirable.